

Upon review, the court will grant leave to amend, with exception of plaintiffs' damage claims, which are denied. See Fed. R. Civ. P. 15. At this late stage of the proceedings, the court will not allow plaintiffs to add claims seeking money damages because this would be unduly prejudicial to the defendants. Plaintiffs may continue with their claims for declaratory relief. Plaintiffs will be granted leave to amend to add the Missouri Department of Corrections as a defendant and to clarify their claims to include a challenge to the constitutionality of the prison book policies. This court finds that justice requires granting the pro se plaintiffs leave to amend

and that such amendment relate back to plaintiffs' original complaint and claims seeking relief. Fed. R. Civ. P. 15 (a)-(c). The court finds that, despite the late hour of the amendment, defendants will not suffer undue prejudice. Missouri Department of Corrections has been on notice of plaintiffs' claims since they were filed because the defendants in this case are employees of the Department of Corrections and were being sued in their official capacities. Further, as to the additional claim challenging the prison book policies, the factual pleadings have always included the book policies and defendants' motion for summary judgment shows that the state defendants contemplated this claim as they argued in their motion that the particular policy was constitutional.

In ruling these motions, the court notes its strong preference to resolve plaintiffs' claims fully on the merits and that this case is set for a bench trial.

IT IS ORDERED that defendants' motions to dismiss are denied. [112, 117, 123] It is further

ORDERED that plaintiffs' motion for leave to amend is granted. [118]

Dated this 7<sup>th</sup> day of September, 2011, at Jefferson City, Missouri.

/s/ *Matt J. Whitworth*

MATT J. WHITWORTH  
United States Magistrate Judge